

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Mark H. & Carol G. Miller)
Dist. 6, Map 162C, Group A, Control Map 162C,) Hardin County
Parcel 9.00, S.I. 000)
Residential Property)
Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$32,000	\$311,200	\$343,200	\$85,800

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on November 27, 2007 in Savannah, Tennessee. In attendance at the hearing were Mr. and Mrs. Miller, the appellants, and Calvin Hinton, Hardin County Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence and adjoining lot located at 5 Plantation Lane in Counce, Tennessee.

The taxpayers contended that subject property should be valued at \$240,000. In support of this position, the taxpayers argued that their April 21, 2007 purchase of subject property for \$240,000 constitutes the best evidence of value. The taxpayers testified that subject property had been listed for sale with a local realtor for several years at \$295,000. The taxpayers also noted that a local appraiser, Stanley Franks, appraised subject property in conjunction with their mortgage at \$251,200 as of April 21, 2007.

The assessor contended that subject property should be valued at \$300,000. In support of this position, four comparable sales which occurred in 2007 were introduced into evidence. Mr. Hinton asserted that the comparables supported value indications ranging from \$260,000-\$335,000 after adjustments. Mr. Hinton gave equal weight to the comparables and concluded that the average sale price of \$300,000 should be adopted as indicative of market value.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$250,000.

The administrative judge finds that January 1, 2007 constitutes the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a). Normally, events occurring after the assessment date are irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989). On the other hand, the Commission has allowed post-assessment date events into evidence to confirm what could have reasonably been assumed on the assessment date. See, e.g., *George W. Hussey* (Assessment Appeals Commission, Davidson Co., Tax Year 1992); and *Christine Hopkins* (Assessment Appeals Commission, Franklin Co., Tax Years 1995-1996).

The administrative judge finds the parties effectively stipulated that no material changes had occurred in this particular market between January 1, 2007 and the dates of the various sales introduced into evidence. Moreover, the subject property and presumably assessor comparable sale #1 were actually listed for sale on January 1, 2007.

The administrative judge would normally disregard Mr. Franks' appraisal report because he valued the property as of April 21, 2007 and was not present to testify. See *TRW Koyo* (Monroe Co., Tax Years 1992-1994). In this case, however, Mr. Franks relied on all 2006 sales in arriving at his conclusion of value. Moreover, as will be discussed below, Mr. Franks' conclusion of value falls squarely within the range of value established by the taxpayers' purchase price and the assessor's comparables.

As previously noted, the assessor averaged the four comparables analyzed in his sales comparison approach. Respectfully, the administrative judge finds that when deriving an estimate of value from comparative sales data one authoritative textbook cautions as follows:

In selecting the single value estimate, the assessor must never average the results. Rather, the process requires the assessor to review the adjustments made and place the greatest reliance on the most comparable property. This comparable is the one that requires the fewest adjustments. [Emphasis added.]

International Association of Assessing Officers, *Property Assessment Valuation* (2nd ed. 1996) pp. 123-24.

The administrative judge finds that the four comparables considered by Mr. Hinton differ in significant respects from one another as well as from the subject property. For example, comparable #1 sold for \$150 per square foot of weighted area whereas the remaining comparables sold for \$81-\$86 per square foot of weighted area. Moreover, comparable #1 had net adjustments of 44% whereas the remaining comparables had net adjustments ranging from 4% to 24%. Rather than averaging the comparables, the

administrative judge finds it most reasonable to conclude that they support a minimum value indication of \$260,000 (comparable #3).

The administrative judge finds that the taxpayers' purchase should receive significant weight, but one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990):

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

The administrative judge finds that both Mr. Franks' appraisal and Mr. Hinton's comparables indicate that the taxpayers' purchase price was somewhat below market value. The administrative judge finds that when all the proof is viewed collectively, the preponderance of the evidence supports adoption of a market value of \$250,000 as of January 1, 2007.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$32,000	\$218,000	\$250,000	\$62,500

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

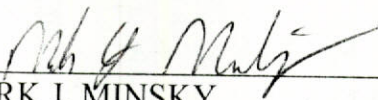
Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 30th day of November, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mark H. & Carol G. Miller
Calvin Hinton, Assessor of Property